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(Original Signature of Member)

112TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. DAVIS of Kentucky introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Regulations From the  
5       Executive in Need of Scrutiny Act of 2011”.

1   **SEC. 2. PURPOSE.**

2           The purpose of this Act is to increase accountability  
3 for and transparency in the federal regulatory process.  
4 Section 1 of article I of the United States Constitution  
5 grants all legislative powers to Congress. Over time, Con-  
6 gress has excessively delegated its constitutional charge  
7 while failing to conduct appropriate oversight and retain  
8 accountability for the content of the laws it passes. By  
9 requiring a vote in Congress, the REINS Act will result  
10 in more carefully drafted and detailed legislation, an im-  
11 proved regulatory process, and a legislative branch that  
12 is truly accountable to the American people for the laws  
13 imposed upon them.

14   **SEC. 3. CONGRESSIONAL REVIEW OF AGENCY RULE-**  
15                           **MAKING.**

16           Chapter 8 of title 5, United States Code, is amended  
17 to read as follows:

18   **“CHAPTER 8—CONGRESSIONAL REVIEW**  
19                           **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

1 **“§ 801. Congressional review**

2 “(a)(1)(A) Before a rule may take effect, the Federal  
3 agency promulgating such rule shall submit to each House  
4 of the Congress and to the Comptroller General a report  
5 containing—

6 “(i) a copy of the rule;

7 “(ii) a concise general statement relating to the  
8 rule;

9 “(iii) a classification of the rule as a major or  
10 nonmajor rule, including an explanation of the clas-  
11 sification specifically addressing each criteria for a  
12 major rule contained within sections 804(2)(A),  
13 804(2)(B), and 804(2)(C);

14 “(iv) a list of any other related regulatory ac-  
15 tions intended to implement the same statutory pro-  
16 vision or regulatory objective as well as the indi-  
17 vidual and aggregate economic effects of those ac-  
18 tions; and

19 “(v) the proposed effective date of the rule.

20 “(B) On the date of the submission of the report  
21 under subparagraph (A), the Federal agency promulgating  
22 the rule shall submit to the Comptroller General and make  
23 available to each House of Congress—

24 “(i) a complete copy of the cost-benefit analysis  
25 of the rule, if any;

1           “(ii) the agency’s actions pursuant to title 5 of  
2           the United States Code, sections 603, 604, 605,  
3           607, and 609;

4           “(iii) the agency’s actions pursuant to title 2 of  
5           the United States Code, sections 1532, 1533, 1534,  
6           and 1535; and

7           “(iv) any other relevant information or require-  
8           ments under any other Act and any relevant Execu-  
9           tive orders.

10          “(C) Upon receipt of a report submitted under sub-  
11         paragraph (A), each House shall provide copies of the re-  
12         port to the chairman and ranking member of each stand-  
13         ing committee with jurisdiction under the rules of the  
14         House of Representatives or the Senate to report a bill  
15         to amend the provision of law under which the rule is  
16         issued, and the Committee on the Judiciary of the House  
17         of Representatives and the Committee on Homeland Secu-  
18         rity and Governmental Affairs of the Senate.

19          “(2)(A) The Comptroller General shall provide a re-  
20         port on each major rule to the committees of jurisdiction  
21         and to the Committee on the Judiciary of the House of  
22         Representatives and the Committee on Homeland Security  
23         and Governmental Affairs of the Senate by the end of 15  
24         calendar days after the submission or publication date as  
25         provided in section 802(b)(2). The report of the Comp-

1 troller General shall include an assessment of the agency's  
2 compliance with procedural steps required by paragraph  
3 (1)(B).

4 “(B) Federal agencies shall cooperate with the Comp-  
5 troller General by providing information relevant to the  
6 Comptroller General's report under subparagraph (A).

7 “(3) A major rule relating to a report submitted  
8 under paragraph (1) shall take effect upon enactment of  
9 a joint resolution of approval described in section 802 or  
10 as provided for in the rule following enactment of a joint  
11 resolution of approval described in section 802, whichever  
12 is later.

13 “(4) A nonmajor rule shall take effect as provided  
14 by section 803 after submission to Congress under para-  
15 graph (1).

16 “(5) If a joint resolution of approval relating to a  
17 major rule is not enacted within the period provided in  
18 subsection (b)(2), then a joint resolution of approval relat-  
19 ing to the same rule may not be considered under this  
20 chapter in the same Congress by either the House of Rep-  
21 resentatives or the Senate.

22 “(b)(1) A major rule shall not take effect unless the  
23 Congress enacts a joint resolution of approval described  
24 under section 802.

1       “(2) If a joint resolution described in subsection (a)  
2 is not enacted into law by the end of 70 session days or  
3 legislative days, as applicable, beginning on the date on  
4 which the report referred to in section 801(a)(1)(A) is re-  
5 ceived by Congress (excluding days either House of Con-  
6 gress is adjourned for more than 3 days during a session  
7 of Congress), then the rule described in that resolution  
8 shall be deemed not to be approved and such rule shall  
9 not take effect.

10       “(c)(1) Notwithstanding any other provision of this  
11 section (except subject to paragraph (3)), a major rule  
12 may take effect for one 90-calendar-day period if the  
13 President makes a determination under paragraph (2) and  
14 submits written notice of such determination to the Con-  
15 gress.

16       “(2) Paragraph (1) applies to a determination made  
17 by the President by Executive order that the major rule  
18 should take effect because such rule is—

19               “(A) necessary because of an imminent threat  
20 to health or safety or other emergency;

21               “(B) necessary for the enforcement of criminal  
22 laws;

23               “(C) necessary for national security; or

24               “(D) issued pursuant to any statute imple-  
25 menting an international trade agreement.

1 “(3) An exercise by the President of the authority  
2 under this subsection shall have no effect on the proce-  
3 dures under section 802.

4 “(d)(1) In addition to the opportunity for review oth-  
5 erwise provided under this chapter, in the case of any rule  
6 for which a report was submitted in accordance with sub-  
7 section (a)(1)(A) during the period beginning on the date  
8 occurring—

9 “(A) in the case of the Senate, 60 session days,  
10 or

11 “(B) in the case of the House of Representa-  
12 tives, 60 legislative days,

13 before the date the Congress is scheduled to adjourn a  
14 session of Congress through the date on which the same  
15 or succeeding Congress first convenes its next session, sec-  
16 tions 802 and 803 shall apply to such rule in the suc-  
17 ceeding session of Congress.

18 “(2)(A) In applying sections 802 and 803 for pur-  
19 poses of such additional review, a rule described under  
20 paragraph (1) shall be treated as though—

21 “(I) such rule were published in the Federal  
22 Register on—

23 “(I) in the case of the Senate, the 15th  
24 session day, or

1                   “(II) in the case of the House of Rep-  
2                   resentatives, the 15th legislative day,  
3                   after the succeeding session of Congress first con-  
4                   venes; and

5                   “(ii) a report on such rule were submitted to  
6                   Congress under subsection (a)(1) on such date.

7                   “(B) Nothing in this paragraph shall be construed  
8                   to affect the requirement under subsection (a)(1) that a  
9                   report shall be submitted to Congress before a rule can  
10                  take effect.

11                  “(3) A rule described under paragraph (1) shall take  
12                  effect as otherwise provided by law (including other sub-  
13                  sections of this section).

14       **“§ 802. Congressional approval procedure for major**  
15                       **rules**

16                  “(a) For purposes of this section, the term ‘joint res-  
17                  olution’ means only a joint resolution introduced on or  
18                  after the date on which the report referred to in section  
19                  801(a)(1)(A) is received by Congress (excluding days ei-  
20                  ther House of Congress is adjourned for more than 3 days  
21                  during a session of Congress), the matter after the resolv-  
22                  ing clause of which is as follows: ‘That Congress approves  
23                  the rule submitted by the \_\_\_ \_\_\_ relating to \_\_\_ \_\_\_.’ (The  
24                  blank spaces being appropriately filled in).



1           “(1) In the House, the majority leader of the  
2       House of Representatives (or his designee) and the  
3       minority leader of the House of Representatives (or  
4       his designee) shall introduce such joint resolution  
5       described in subsection (a) (by request), within 3  
6       legislative days after Congress receives the report re-  
7       ferred to in section 801(a)(1)(A).

8           “(2) In the Senate, the majority leader of the  
9       Senate (or his designee) and the minority leader of  
10      the Senate (or his designee) shall introduce such  
11      joint resolution described in subsection (a) (by re-  
12      quest), within 3 session days after Congress receives  
13      the report referred to in section 801(a)(1)(A).

14      “(b)(1) A joint resolution described in subsection (a)  
15      shall be referred to the committees in each House of Con-  
16      gress with jurisdiction under the rules of the House of  
17      Representatives or the Senate to report a bill to amend  
18      the provision of law under which the rule is issued, and  
19      the Committee on the Judiciary of the House of Rep-  
20      resentatives and the Committee on Homeland Security  
21      and Governmental Affairs of the Senate.

22      “(2) For purposes of this section, the term ‘submis-  
23      sion date’ means the date on which the Congress receives  
24      the report submitted under section 801(a)(1).

1       “(c) In the Senate, if the committee or committees  
2 to which a joint resolution described in subsection (a) has  
3 been referred have not reported it at the end of 15 session  
4 days after its introduction, such committee or committees  
5 shall be automatically discharged from further consider-  
6 ation of the resolution and it shall be placed on the cal-  
7 endar. A vote on final passage of the resolution shall be  
8 taken on or before the close of the 15th session day after  
9 the resolution is reported by the committee or committees  
10 to which it was referred, or after such committee or com-  
11 mittees have been discharged from further consideration  
12 of the resolution.

13       “(d)(1) In the Senate, when the committee or com-  
14 mittees to which a joint resolution is referred have re-  
15 ported, or when a committee or committees are discharged  
16 (under subsection (c)) from further consideration of a  
17 joint resolution described in subsection (a), it is at any  
18 time thereafter in order (even though a previous motion  
19 to the same effect has been disagreed to) for a motion  
20 to proceed to the consideration of the joint resolution, and  
21 all points of order against the joint resolution (and against  
22 consideration of the joint resolution) are waived. The mo-  
23 tion is not subject to amendment, or to a motion to post-  
24 pone, or to a motion to proceed to the consideration of  
25 other business. A motion to reconsider the vote by which

1 the motion is agreed to or disagreed to shall not be in  
2 order. If a motion to proceed to the consideration of the  
3 joint resolution is agreed to, the joint resolution shall re-  
4 main the unfinished business of the Senate until disposed  
5 of.

6 “(2) In the Senate, debate on the joint resolution,  
7 and on all debatable motions and appeals in connection  
8 therewith, shall be limited to not more than 2 hours, which  
9 shall be divided equally between those favoring and those  
10 opposing the joint resolution. A motion to further limit  
11 debate is in order and not debatable. An amendment to,  
12 or a motion to postpone, or a motion to proceed to the  
13 consideration of other business, or a motion to recommit  
14 the joint resolution is not in order.

15 “(3) In the Senate, immediately following the conclu-  
16 sion of the debate on a joint resolution described in sub-  
17 section (a), and a single quorum call at the conclusion of  
18 the debate if requested in accordance with the rules of the  
19 Senate, the vote on final passage of the joint resolution  
20 shall occur.

21 “(4) Appeals from the decisions of the Chair relating  
22 to the application of the rules of the Senate to the proce-  
23 dure relating to a joint resolution described in subsection  
24 (a) shall be decided without debate.

1       “(e)(1) In the House of Representatives, if the com-  
2       mittee or committees to which a joint resolution described  
3       in subsection (a) has been referred have not reported it  
4       at the end of 15 legislative days after its introduction,  
5       such committee or committees shall be automatically dis-  
6       charged from further consideration of the resolution and  
7       it shall be placed on the appropriate calendar. A vote on  
8       final passage of the resolution shall be taken on or before  
9       the close of the 15th legislative day after the resolution  
10      is reported by the committee or committees to which it  
11      was referred, or after such committee or committees have  
12      been discharged from further consideration of the resolu-  
13      tion.

14      “(2)(A) A motion in the House of Representatives to  
15      proceed to the consideration of a resolution shall be highly  
16      privileged and not debatable. An amendment to the motion  
17      shall not be in order, nor shall it be in order to move to  
18      reconsider the vote by which the motion is agreed to or  
19      disagreed to.

20      “(B) Debate in the House of Representatives on a  
21      resolution shall be limited to not more than two hours,  
22      which shall be divided equally between those favoring and  
23      those opposing the resolution. A motion to further limit  
24      debate shall not be debatable. No amendment to, or mo-  
25      tion to recommit, the resolution shall be in order. It shall

1 not be in order to reconsider the vote by which a resolution  
2 is agreed to or disagreed to.

3 “(C) Motions to postpone, made in the House of Rep-  
4 resentatives with respect to the consideration of a resolu-  
5 tion, and motions to proceed to the consideration of other  
6 business, shall be decided without debate.

7 “(D) All appeals from the decisions of the Chair re-  
8 lating to the application of the Rules of the House of Rep-  
9 resentatives to the procedure relating to a resolution shall  
10 be decided without debate.

11 “(E) Except to the extent specifically provided in the  
12 preceding provisions of this subsection, consideration of a  
13 resolution in the House of Representatives shall be gov-  
14 erned by the Rules of the House of Representatives appli-  
15 cable to other resolutions in similar circumstances.

16 “(f) If, before the passage by one House of a joint  
17 resolution of that House described in subsection (a), that  
18 House receives from the other House a joint resolution  
19 described in subsection (a), then the following procedures  
20 shall apply with respect to a joint resolution described in  
21 subsection (a) of the House receiving the joint resolu-  
22 tion—

23 “(1) the procedure in that House shall be the  
24 same as if no joint resolution had been received from  
25 the other House; but

1           “(2) the vote on final passage shall be on the  
2       joint resolution of the other House.

3       “(g) The enactment of a resolution of approval does  
4       not serve as a grant or modification of statutory authority  
5       by Congress for the promulgation of a rule, does not extin-  
6       guish or affect any claim, whether substantive or proce-  
7       dural, against any alleged defect in a rule, and shall not  
8       form part of the record before the court in any judicial  
9       proceeding concerning a rule.

10       “(h) This section and section 803 are enacted by  
11       Congress—

12           “(1) as an exercise of the rulemaking power of  
13       the Senate and House of Representatives, respec-  
14       tively, and as such it is deemed a part of the rules  
15       of each House, respectively, but applicable only with  
16       respect to the procedure to be followed in that  
17       House in the case of a joint resolution described in  
18       subsection (a), and it supersedes other rules only to  
19       the extent that it is inconsistent with such rules; and

20           “(2) with full recognition of the constitutional  
21       right of either House to change the rules (so far as  
22       relating to the procedure of that House) at any time,  
23       in the same manner, and to the same extent as in  
24       the case of any other rule of that House.

1 **“§ 803. Congressional disapproval procedure for**  
2 **nonmajor rules**

3 “(a) For purposes of this section, the term ‘joint res-  
4 olution’ means only a joint resolution introduced in the  
5 period beginning on the date on which the report referred  
6 to in section 801(a)(1)(A) is received by Congress and  
7 ending 60 days thereafter (excluding days either House  
8 of Congress is adjourned for more than 3 days during a  
9 session of Congress), the matter after the resolving clause  
10 of which is as follows: ‘That Congress disapproves the  
11 nonmajor rule submitted by the \_\_\_ relating to \_\_\_,  
12 and such rule shall have no force or effect.’ (The blank  
13 spaces being appropriately filled in).

14 “(b)(1) A joint resolution described in subsection (a)  
15 shall be referred to the committees in each House of Con-  
16 gress with jurisdiction.

17 “(2) For purposes of this section, the term submis-  
18 sion or publication date means the later of the date on  
19 which—

20 “(A) the Congress receives the report submitted  
21 under section 801(a)(1); or

22 “(B) the nonmajor rule is published in the Fed-  
23 eral Register, if so published.

24 “(c) In the Senate, if the committee to which is re-  
25 ferred a joint resolution described in subsection (a) has  
26 not reported such joint resolution (or an identical joint

1 resolution) at the end of 15 session days after the date  
2 of introduction of the joint resolution, such committee may  
3 be discharged from further consideration of such joint res-  
4 olution upon a petition supported in writing by 30 Mem-  
5 bers of the Senate, and such joint resolution shall be  
6 placed on the calendar.

7       “(d)(1) In the Senate, when the committee to which  
8 a joint resolution is referred has reported, or when a com-  
9 mittee is discharged (under subsection (c)) from further  
10 consideration of a joint resolution described in subsection  
11 (a), it is at any time thereafter in order (even though a  
12 previous motion to the same effect has been disagreed to)  
13 for a motion to proceed to the consideration of the joint  
14 resolution, and all points of order against the joint resolu-  
15 tion (and against consideration of the joint resolution) are  
16 waived. The motion is not subject to amendment, or to  
17 a motion to postpone, or to a motion to proceed to the  
18 consideration of other business. A motion to reconsider the  
19 vote by which the motion is agreed to or disagreed to shall  
20 not be in order. If a motion to proceed to the consideration  
21 of the joint resolution is agreed to, the joint resolution  
22 shall remain the unfinished business of the Senate until  
23 disposed of.

24       “(2) In the Senate, debate on the joint resolution,  
25 and on all debatable motions and appeals in connection



1 therewith, shall be limited to not more than 10 hours,  
2 which shall be divided equally between those favoring and  
3 those opposing the joint resolution. A motion to further  
4 limit debate is in order and not debatable. An amendment  
5 to, or a motion to postpone, or a motion to proceed to  
6 the consideration of other business, or a motion to recom-  
7 mit the joint resolution is not in order.

8 “(3) In the Senate, immediately following the conclu-  
9 sion of the debate on a joint resolution described in sub-  
10 section (a), and a single quorum call at the conclusion of  
11 the debate if requested in accordance with the rules of the  
12 Senate, the vote on final passage of the joint resolution  
13 shall occur.

14 “(4) Appeals from the decisions of the Chair relating  
15 to the application of the rules of the Senate to the proce-  
16 dure relating to a joint resolution described in subsection  
17 (a) shall be decided without debate.

18 “(e) In the Senate the procedure specified in sub-  
19 section (c) or (d) shall not apply to the consideration of  
20 a joint resolution respecting a nonmajor rule—

21 “(1) after the expiration of the 60 session days  
22 beginning with the applicable submission or publica-  
23 tion date, or

24 “(2) if the report under section 801(a)(1)(A)  
25 was submitted during the period referred to in sec-

1       tion 801(d)(1), after the expiration of the 60 session  
2       days beginning on the 15th session day after the  
3       succeeding session of Congress first convenes.

4       “(f) If, before the passage by one House of a joint  
5       resolution of that House described in subsection (a), that  
6       House receives from the other House a joint resolution  
7       described in subsection (a), then the following procedures  
8       shall apply:

9               “(1) The joint resolution of the other House  
10       shall not be referred to a committee.

11              “(2) With respect to a joint resolution described  
12       in subsection (a) of the House receiving the joint  
13       resolution—

14                   “(A) the procedure in that House shall be  
15       the same as if no joint resolution had been re-  
16       ceived from the other House; but

17                   “(B) the vote on final passage shall be on  
18       the joint resolution of the other House.

19   **“§ 804. Definitions**

20       “For purposes of this chapter—

21               “(1) The term ‘Federal agency’ means any  
22       agency as that term is defined in section 551(1).

23               “(2) The term ‘major rule’ means any rule, in-  
24       cluding an interim final rule, that the Administrator  
25       of the Office of Information and Regulatory Affairs

1 of the Office of Management and Budget finds has  
2 resulted in or is likely to result in—

3 “(A) an annual effect on the economy of  
4 \$100,000,000 or more;

5 “(B) a major increase in costs or prices for  
6 consumers, individual industries, Federal,  
7 State, or local government agencies, or geo-  
8 graphic regions; or

9 “(C) significant adverse effects on competi-  
10 tion, employment, investment, productivity, in-  
11 novation, or on the ability of United States-  
12 based enterprises to compete with foreign-based  
13 enterprises in domestic and export markets.

14 “(3) The term ‘nonmajor rule’ means any rule  
15 that is not a major rule.

16 “(4) The term ‘rule’ has the meaning given  
17 such term in section 551, except that such term does  
18 not include—

19 “(A) any rule of particular applicability,  
20 including a rule that approves or prescribes for  
21 the future rates, wages, prices, services, or al-  
22 lowances therefore, corporate or financial struc-  
23 tures, reorganizations, mergers, or acquisitions  
24 thereof, or accounting practices or disclosures  
25 bearing on any of the foregoing;

1                   “(B) any rule relating to agency manage-  
2                   ment or personnel; or

3                   “(C) any rule of agency organization, pro-  
4                   cedure, or practice that does not substantially  
5                   affect the rights or obligations of non-agency  
6                   parties.

7   **“§ 805. Judicial review**

8                   “(a) No determination, finding, action, or omission  
9                   under this chapter shall be subject to judicial review.

10                  “(b) Notwithstanding subsection (a), a court may de-  
11                  termine whether a Federal agency has completed the nec-  
12                  essary requirements under this chapter for a rule to take  
13                  effect.

14   **“§ 806. Exemption for monetary policy**

15                  “Nothing in this chapter shall apply to rules that con-  
16                  cern monetary policy proposed or implemented by the  
17                  Board of Governors of the Federal Reserve System or the  
18                  Federal Open Market Committee.

19   **“§ 807. Effective date of certain rules**

20                  “Notwithstanding section 801—

21                         “(1) any rule that establishes, modifies, opens,  
22                         closes, or conducts a regulatory program for a com-  
23                         mercial, recreational, or subsistence activity related  
24                         to hunting, fishing, or camping; or

1           “(2) any rule other than a major rule which an  
2       agency for good cause finds (and incorporates the  
3       finding and a brief statement of reasons therefore in  
4       the rule issued) that notice and public procedure  
5       thereon are impracticable, unnecessary, or contrary  
6       to the public interest,  
7       shall take effect at such time as the Federal agency pro-  
8       mulgating the rule determines.”.